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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,856	02/27/2004	David S. Fenster	IHC-002US	6834

7590 02/22/2007
David Aker
23 Southern Road
Hartsdale, NY 10530

EXAMINER

PATEL, RITA RAMESH

ART UNIT	PAPER NUMBER
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1746

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/788,856

Applicant(s)

FENSTER, DAVID S.

Examiner

Rita R. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 17-19 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Priority

Acknowledgement has been made of applicant's claim for priority under 35 U.S.C. 119. This application claims the benefit of 60/451,149 filed 2/28/03.

Drawings

The drawings filed 3/5/04 are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "stiffener" (claims 4, 5, and 11), as well as the "mesh housing" (claim 1) must be indicated in the drawings or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-16, drawn to an apparatus for washing items, classified in class 383, subclass 114.
- II. Claims 17-19, drawn to a method of washing an item, classified in class 8, subclass 159.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as apparatus and a process for use. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus claims of Group I is not required to use a washing machine, it can simply be used to store items therein, for example like a laundry hamper or storage container; the method claims of Group II require a washing environment, namely a washing machine and/or a disinfecting or sterilizing environment.

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A telephone call was made to David Aker on February 16, 2007 to request an oral election to the above restriction requirement and applicant made an election without traverse of Group I directed to claims 1-16.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wachtel (US Patent No. 5,050,998) and further in view of Tsuyoshi et al. herein referred to as "Tsuyoshi" (US Patent No. 4,974,967).

Wachtel teaches a dual laundry bag that has a front panel, a rear panel, and a center panel which divides the dual laundry bag into two or more compartments; Wachtel's disclosure of "two or more compartments" reads on applicant's claims for a first, second, and third compartment. The top of the Wachtel laundry bag includes a drawstring closure and a pair of grommets. The bottom of each compartment includes a zipper closure (closure device) which facilitates discharging each compartment individually (abstract). The top edges 34, 36 of the front and rear panels 12, 16 are folded over and sewn to the face 38, 40 of the respective panels 12, 16 to form hems 42, 44 (folded strip). Center panel 14 may be releasably secured to panels 12 and 16 (first and second walls) such as by means of zippers (col. 2, lines 27-33).

Wachtel fails to specify the exact material composition of its laundry bag, however, it is commonly known in the art, as taught by Tsuyoshi that mesh/net fabrics are used for such laundry bags. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a mesh bag in Wachtel because mesh bags are known in the art to be strong, pliable, and allow the flow of washing water through it when placed in a washing machine. Additionally, the bag of Wachtel is fully capable of being placed in a washing machine; laundry bags that are commonly used to hold articles to be washed are commonly put into a washing machine to hold articles together therein. Keeping articles contained within these mesh bags during laundering functions is essential in minimizing removal of articles into the washing machine and eliminate the chance of losing articles of clothing in the machine. It is well settled that the intended use of a claimed apparatus is not germane to the issue of the patentability of the claimed structure. If the prior art structure is capable of performing the claimed use then it meets the claim. *In re Casey*, 152 USPQ 235, 238 (CCPA 1967); *In re Otto*, 136 USPA 459 (CPA 1963).

Moreover, it is at once envisaged that the zipper of Wachtel is comprised of plastic, it is a known water-resistant, corrosion-resistant, and durable material in the art that is commonly used to make-up durable zipper components. Although Wachtel does not specifically delineate the exact dimensions of its laundry bag, optimization of the size of the bag would have been obvious to one of ordinary skill in the art at the time of the invention for meeting the holding capacity needs required by the size of articles being washed (i.e.-brassieres, socks, blankets, comforters) and the size of the washing

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machine being used (i.e.-domestic household washing machine, industrial-sized machine). It would have been obvious to one having ordinary skill in the art at the time the invention was made to optimize the size of the laundry bag since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Finally, the top drawstring closure of Wachtel reads on applicant's claims for a closure device to releasably connecting said first cylindrical portion and said second cylindrical portion.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Heidel (US Patent No. 7,056,023 teaches a wash bag assembly for washing delicate wash items having a container which defines an interior chamber comprised of a first and second subchamber. Gibeau (Pub. No.: US 2004/0264815) teaches a laundry device for protecting underwire brassieres which includes a water permeable enclosure having a rigid frame for restricting torsional movement of the enclosure and the clothing contained therein during laundering.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rita R. Patel whose telephone number is (571) 272-8701. The examiner can normally be reached on M-F: 8-5.

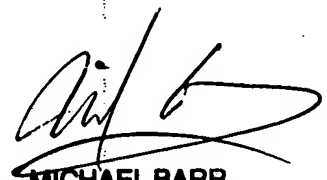
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



rrp



MICHAEL BARR
SUPERVISORY PATENT EXAMINER